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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,920	09/23/2003	Kris Oprisko	20019.03	6544

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The Law Office of Steven G. Roeder
5560 Chelsea Avenue
La Jolla, CA 92037

EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3711

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,920

Applicant(s)

OPRISKO, KRIS

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/27/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-31 and 33-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-31 and 33-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. Claims 44 objected to under 37 CFR 1.75 as being a substantial duplicate of claim 48. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

2. Claims 56 objected to under 37 CFR 1.75 as being a substantial duplicate of claim 58. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

3. Claims 18-31,33-61 rejected under 35 U.S.C. 102(b) as being anticipated by Teunenbrock (6739935).

Claim 44: Teunenbrock teaches providing a plurality of game pieces and a playing board (4:31-34) including a first game piece (1) and a second game piece (2) having deformable keys (10.10').

Examiner takes the position that any surface such as a room floor where two players meet can be broadly and reasonably interpreted as players being in "designated positions". Also Teunenbroek inherently teaches two players to come close to each other to play a contact/game and that can be broadly and reasonably interpreted as "being on same position".

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4. Claims 18-31,33-61 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Teunenbrock.

Teunenbroek teaches providing a plurality of game pieces and a playing board (4:31-34) including a first game piece (1) and a second game piece (2) having deformable keys (10.10').

Teunenbrock teaches all limitations except that it does not expressly teach game being played in a board game environment having designated positions.

Teunenbroek does however teach that the apparatus can be used in various games and competitions (4:9-11) for commercial purposes.

Board games are known to promote collective items such as game pieces by providing them in a kit with board game to attract players.

In order to make the kit attractive to players, it would have been obvious to use game pieces in board game environment.

Applicant might argue that some of applicant's claims provide a set of playing pieces.

Whereas some players like to play a game of short duration others like to play a game that takes longer to finish. In order to make a game last longer for those players, it would have been obvious to use multiple game pieces.

One of ordinary skill in art at the time the invention was made would have suggested providing multiple pieces to last the game longer.

5. Claims 18-31,33-61 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Teunenbrock in view of Ferris (4563011).

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Teunenbroek teaches providing a plurality of game pieces and a playing board (4:31-34) including a first game piece (1) and a second game piece (2) having deformable keys (10.10'). Teunenbrock teaches all limitations except that it does not expressly teach game being played in a board game environment having designated positions and playing pieces moving, engaging and being deformed.

Teunenbroek does however teach that the apparatus can be used in various games and competitions (4:9-11) for commercial purposes.

Board games are known to promote collective items such as game pieces by providing them in a kit with board game to attract players.

Ferris teaches a method of using deformable game pieces in a board game environment whereby one playing piece crushes (deforms) another playing piece upon landing on the same position (abstract).

In order to reach a wide section of population, it would have been obvious to use deformable playing pieces of Teunenbrock in Ferris method of playing a board game. One of ordinary skill in art at the time the invention was made would have suggested using a deformable playing piece in board game environment.

Applicant might argue that some of applicant's claims provide a set of playing pieces.

Whereas some players like to play a game of short duration others like to play a game that takes longer to finish. In order to make a game last longer for those players, it would have been obvious to use multiple game pieces.

One of ordinary skill in art at the time the invention was made would have suggested providing multiple pieces to last the game longer.

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6. Claims 18-31,33-61 rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris.

Ferris teaches providing sets of playing pieces (a truck and a crushable car) to each player (abstract), further teaches moving playing pieces on a game board (10), landing and deforming (crushing) a playing piece (summary).

Ferris teaches all limitations except that Ferris does not expressly indicate the truck also being deformable. Examiner takes the position that game pieces are mostly made from plastic and likely to be slightly deformed when being pressed against the crushable car. One of ordinary skill in art at the time the invention was made would have experienced a deformation in Ferris truck.

Response to Arguments

7. Applicant's arguments filed 12/27/04 have been fully considered but they are not persuasive. ***.

Examiner takes the position that any surface such as a room floor where two players meet can be broadly and reasonably interpreted as players being in "designated positions". Also Teunenbroek inherently teaches two players to come close to each other to play a contact/game and that can be broadly and reasonably interpreted as "being on same position".

Applicant might argue that some of applicant's claims provide a set of playing pieces. Whereas some players like to play a game of short duration others like to play a game that takes longer to finish. In order to make a game last longer for those players, it would have been obvious to use multiple game pieces.

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Examiner takes the position that game pieces are mostly made from plastic and likely to be slightly deformed when being pressed against each other.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta
Primary Examiner
Art Unit 3711

VKM
March 1, 2005